

ESTTA Tracking number: **ESTTA64495**

Filing date: **01/31/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Nordstrom, Inc.
Granted to Date of previous extension	02/01/2006
Address	1617 Sixth Avenue Suite 500 Seattle, WA 98101 UNITED STATES
Attorney information	Kevin S. Costanza Seed IP Law Group PLLC 701 Fifth Avenue, Suite 6300 Seattle, WA 98104 UNITED STATES Kevinco@SeedIp.com, LitCal@SeedIP.com Phone: 206-622-4900

Applicant Information

Application No	76075382	Publication date	10/04/2005
Opposition Filing Date	01/31/2006	Opposition Period Ends	02/01/2006
Applicant	Famely, Vicki 241 So. Arrowhead Ave. San Bernardino, CA 92408 UNITED STATES		

Goods/Services Affected by Opposition

Class 025.

All goods and services in the class are opposed, namely: Clothing, namely, footwear, athletic footwear, athletic shoes, shoes, boots, slippers, basketball shoes, casual footwear, sandals; aprons, bandannas, headbands, sweatbands, wristbands, bathing caps, bathing suits and trunks, beachwear, swimwear, beach and bathing coverups, bikinis, clothing belts, Bermuda shorts, blazers, blouses, Halloween and masquerade costumes, foul weather gear, gym shorts, leather coats, pants, parkas, play suits, polo shirts, ponchos, pullovers, rain coats, shirts, skirts, slacks, sweatpants, sweatshirts, sweatshorts, sweaters, t-shirts, tank tops, tops, wet suits, jackets, jeans, warm up suits, jogging suits, sweat suits, bodysuits, leotards, leg warmers, ski suits, ski pants, ski bibs, ski jackets, suits, tuxedos, trousers, shorts, coats, sport coats, knit shirts, vests, jumpsuits, overcoats, wind resistant jackets; headwear, namely, hats; neckties, neckerchieves, scarves; sleepwear, namely, nightgowns, robes, pajamas, nightshirts; rainwear, namely, gloves, mittens, galoshes; lingerie, panties, bras, underclothes, loungewear, underwear, briefs, underpants, boxer shorts, undershirts, suspenders, hosiery, socks

Attachments	SP-NoticeOpposition (5).PDF (4 pages)
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Signature	/KSC/
Name	Kevin S. Costanza
Date	01/31/2006

THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

NORDSTROM, INC.,)	
)	
Opposer,)	Opposition No. _____
)	
v.)	Serial No. 76/075382
)	
VICKI FAMELY,)	
)	
Applicant.)	
_____)	Attorney Docket No. 700043.80061

NOTICE OF OPPOSITION

Opposers Nordstrom, Inc. ("Nordstrom"), which has a place of business at 1617 Sixth Avenue, Suite 500, Seattle, Washington 98101, believes that it will be damaged by registration of the mark THE RACK shown in United States Trademark Application Serial No. 76/075,382, filed June 21, 2000, in class 25 by Vicki Famely ("Applicant"), and published for opposition on October 4, 2005. Nordstrom therefore opposes that application.

Nordstrom has requested and received an extension of time until April 13, 2005 in which to oppose the application.

The grounds for this Opposition are as follows:

1. Opposer is a retail department store engaged in the marketing and sale of a wide variety of men's, women's and children's clothing and accessories in interstate commerce.
2. Commencing at least as early as October 1972, Opposer adopted and has continuously used the mark NORDSTROM RACK in interstate commerce in the United States

as a trademark in connection with retail men's and women's clothing store services and has been selling men's and women's clothing in its stores, including, but not limited to, shirts, jackets, pants, T-shirts, sweatshirts, underwear and sleepwear.

3. Opposer applied and received U.S. Trademark Registration No. 1,409,938 for the mark NORDSTROM RACK for retail men's and women's clothing store services. The registration is valid and subsisting and has become incontestable. The registration has been assigned by Opposer to NIHC, Inc., a related company, and the NORDSTROM RACK mark and registration have been exclusively licensed to Opposer.

4. Since commencing use of the NORDSTROM RACK mark as described above, Opposer has generated substantial revenue from the sale of its goods in the United States. Additionally, Opposer has expended substantial sums of money, time and effort in advertising, promoting and popularizing the NORDSTROM RACK mark in the United States.

5. As a result of Opposer's use of the NORDSTROM RACK mark, and its advertising and promotion of its NORDSTROM RACK retail clothing store services and clothing sold in connection with those services, the mark has become well known in the United States and is recognized as identifying the high-quality services and goods of Opposer. Thus, Opposer's NORDSTROM RACK mark and the associated goodwill are valuable assets of Opposer.

6. Applicant has applied to register THE RACK for clothing, namely, footwear, athletic footwear, athletic shoes, shoes, boots, slippers, basketball shoes, casual footwear, sandals; aprons, bandannas, headbands, sweatbands, wristbands, bathing caps, bathing suits and trunks, beachwear, swimwear, beach and bathing cover-ups, bikinis, clothing belts, Bermuda shorts, blazers, blouses, Halloween and masquerade costumes, foul weather gear, gym shorts, leather coats, pants, parkas, play suits, polo shirts, ponchos, pullovers, rain coats, shirts, slacks, sweatpants, sweatshirts, sweatshorts, sweaters, t-shirts, tank tops, tops, wet suits, jackets, jeans, warm up suits, jogging suits, sweat suits, bodysuits, leotards, leg warmers, ski suits, ski pants, ski

bibs, ski jackets, suits, tuxedos, trousers, shorts, coats, sport coats, knit shirts, vests, jumpsuits, overcoats, wind resistant jackets; headwear, namely, hats; neckties, neckerchiefs, scarves, sleepwear, namely, nightgowns, robes, pajamas, nightshirts; rainwear, namely, gloves, mittens, galoshes; lingerie, panties, bras, underclothes, loungewear, underwear, briefs, underpants, boxer shorts, undershirts, suspenders, hosiery, and socks. The goods described in Applicant's application are so closely related to Opposer's retail store clothing services and the clothing sold in Opposer's retail stores that confusion is likely to result if the parties' respective goods and services are marketed and sold under the same or confusingly similar marks.

7. The mark THE RACK for the goods described in Applicant's application is confusingly and deceptively similar to Opposer's NORDSTROM RACK mark for Opposer's above-described services, such that the trade and purchasing public will be confused by and deceived into believing that Applicant's goods originate with Opposer, or are otherwise authorized by, sponsored by, licensed by, affiliated with, or associated with Opposer.

8. Upon information and belief, Applicant has not made use of the mark THE RACK as a trademark in connection with the goods listed in the application, or in connection with any other goods or services, in interstate commerce in the United States or in commerce between the United States and any foreign country, prior to Opposer's first use of its NORDSTROM RACK mark.

9. Upon information and belief, Applicant has not made use of the mark THE RACK as a trademark in connection with the goods listed in the application, or in connection with any other goods or services, in interstate commerce in the United States, or in commerce between the United States and any foreign country, prior to the filing date of Applicant's intent-to-use application.

10. By reason of the foregoing, Opposer would be greatly damaged by the registration of the mark THE RACK to Applicant.

WHEREFORE, Opposer prays that this Opposition be sustained, Applicant's application denied and the mark refused registration.

Correspondence Address

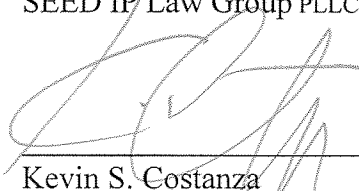
Please direct all communications to:

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DATED this 31st day of January, 2006.

Respectfully submitted,

SEED IP Law Group PLLC

A handwritten signature in dark ink, appearing to read 'Kevin S. Costanza', is written over a horizontal line.

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Attorneys for Opposer
NORDSTROM, INC.